

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA      :
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      - v. -                   :
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EDWIN HENRIQUEZ,              :      S13 06 Cr. 1014 (AKH)
    a/k/a "Carlos,"           :
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GOVERNMENT' S PROPOSED VOIR DIRE

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of America

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- Of Counsel -

GOVERNMENT'S PROPOSED VOIR DIRE

The Government respectfully requests that the Court include the following questions in its examination of prospective jurors pursuant to Rule 24(a) of the Federal Rules of Criminal Procedure. The Court is requested to pursue more detailed questioning (if necessary, outside the presence of the jury pool) if a particular juror's answer reveals that further inquiry is appropriate and, in such an instance, to conclude with an inquiry as to whether the particular fact or circumstance would influence the juror in favor of or against either the Government or the defendants.

The Charges

1. This is a criminal case. The defendant, EDWIN HENRIQUEZ, a/k/a "Carlos," has been charged with narcotics and firearms offenses in an Indictment filed by a Grand Jury sitting in this District. The Indictment is not evidence itself. It simply contains the charges that the Government is required to prove to the satisfaction of the trial jury beyond a reasonable doubt. Those of you selected to sit on this jury will receive a detailed explanation of the charges at the conclusion of the case, but I would like to give you a brief summary of the charges so that we can determine whether there is anything about the charges that would make it impossible for you to sit as a fair

and impartial juror.

2. Count One of the indictment charges the defendant with conspiring to distribute and possess with intent to distribute at least one kilogram of mixtures and substances containing a detectable amount of heroin. This conspiracy is alleged to have existed from in or about 2001 through and including in or about August 15, 2005. The second count charges the defendant with distributing and possessing with intent to distribute at least one kilogram of mixtures and substances containing a detectable amount of heroin in or about August 2005. The third count charges the defendant with possessing a firearm in connection with the narcotics offense that I just described in Count One.

3. Does any juror have any personal knowledge of the charge in the Indictment as I have described it?

Ability to Render a Fair Verdict

4. The charges in this case involve drugs, also called narcotics or controlled substances, and in particular, heroin. Does any juror have any opinion about the enforcement of the federal narcotics laws which might prevent you from being fair and impartial in this case? Does any juror have any opinion specifically about the enforcement of federal narcotics laws regarding heroin which might prevent you from being fair and impartial in this case?

5. Has any juror been involved in an offense involving narcotics? Has any juror's relative, close friend or associate been involved in an offense involving narcotics? Has any juror, or any member of the juror's family, or any juror's close friend, had any experiences of any kind, directly or indirectly, with narcotics?

6. Do any of you have an opinion about the authority or right of the Government to enforce the laws prohibiting the distribution of narcotics, the possession of narcotics with intent to distribute or conspiracy to do the same that would affect your ability to be fair and impartial in this type of case?

7. Do any of you feel, for any reason, that you could not view fairly and impartially a case involving federal narcotics charges?

8. Does the fact that the charges also involve firearms affect your ability to render a fair verdict?

9. Do any of you have any opinion about the enforcement of the federal firearm or gun control laws which might prevent you from being fair and impartial in this case?

10. Do any of you believe that the federal, state or local government should not limit a person's ability to own a firearm?
[As to any prospective juror who answers affirmatively, the Court is respectfully requested to inquire, at the bench or in the

robing room, into the circumstances of that belief.]

11. Do any of you or does any member of your family now own, or have any of you ever owned, a firearm or ammunition? If so, for what reason? If so, what kind and was it properly licensed?

12. Have any of you been involved in the lawful manufacture, sale, or marketing of guns or ammunition?

13. Have any of you or has any member of your family ever lobbied, petitioned, or worked in any other manner for or against any laws or regulations relating to firearms or gun control? If so, when and what did you do?

14. Has any juror been involved in an offense involving a firearm or ammunition?

15. Has any juror's relative, close friend, or associate ever been involved in an offense involving a firearm or ammunition?

Knowledge of the Trial Participants

16. Do any of you know, or have you had any dealings, directly or indirectly, with the defendant, EDWIN HENRIQUEZ, a/k/a "Carlos"?

17. Do any of you know, or have you had any dealings, directly or indirectly, with any relative, friend or associate of the defendant?

18. The Government is represented here, as in all cases

where it is a party before this Court, by the United States Attorney for the Southern District of New York, Michael J. Garcia. The conduct of the trial will be in the immediate charge of Assistant United States Attorneys Marissa Molé and Christopher LaVigne. Also sitting at counsel table will be Christine Woods, a paralegal at the United States Attorney's Office. Do any of you know Mr. Garcia, Ms. Molé, Mr. LaVigne, or Ms. Woods? Have any of you had any dealings, either directly or indirectly, with any of these officials?

19. Defendant EDWIN HENRIQUEZ is represented by Alan Kaufman, Esq. Do any of you know Mr. Kaufman? Has any juror had any dealings directly or indirectly with Mr. Kaufman?

20. Does any juror know of or has he or she had any dealings, either directly or indirectly, with the following persons who may be mentioned at trial or who may testify at trial:

[to be supplied prior to jury selection]

21. Does any juror have relatives, friends, associates, employers or employees who know or who have had any dealings with any of these individuals?

Relevant Locations

22. Certain conduct at issue in this case took place in the vicinity of the following locations:

[to be supplied prior to jury selection]

Are any of you familiar with these general areas? Why? How?
What do you know about the areas? Do you think that your familiarity with these areas will affect your ability to render a fair verdict?

Relationship With Government

23. Does any juror know, or have any association - professional, business, or social, direct or indirect, current or past - with any member of the staff of the United States Attorney's Office for the Southern District of New York; or with any member of the staff of the Drug Enforcement Administration or New York City Police Department? Is any member of your family employed by any law enforcement agency, whether federal, state or local, including any police department?

24. Have you, or has any member of your family, either as an individual or in the course of his or her business, ever been a party to any legal action or dispute with the United States or any of the officers, departments, agencies, or employees of the United States, or had any interest in any such legal action or dispute or its outcome? Have you, or has any member of your family, ever been involved in a dispute with any law enforcement agents, including the Drug Enforcement Administration, the New York City Police Department, or the Internal Revenue Service?

25. Has any juror, either through any experience he or she has had or anything he or she has seen or read, developed any bias or prejudice for or against the United States Attorney's Office, the Drug Enforcement Administration, the New York City Police Department, or any other law enforcement agency?

Prior Jury Service

26. Have you ever at any time served as a member of a Grand Jury, whether in federal, state, county or city court? If so, when and where?

27. Have you ever served as a juror in any court? If so, in what court did you serve? What type of case was it - civil or criminal? Without telling us what the verdict was, did the jury reach a verdict?

Experience as a Witness, Defendant, or Crime Victim

28. Have you, or have any of your relatives or close friends, ever been involved or appeared as a witness in any investigation by a federal or state Grand Jury, or by a Congressional or state legislative committee, licensing authority, or governmental agency or been questioned in any matter by a federal, state or local enforcement authority?

29. Have you, or have any of your relatives or close friends, ever been a witness or a complainant in any hearing or trial, state or federal?

30. Are you, or is any member of your family, or any close

friend, now under subpoena or, to your knowledge, about to be subpoenaed in any criminal case?

31. Have you, or have any of your relatives or close friends, ever been the subject of any investigation or accusation by any Grand Jury, federal or state, or by any Congressional Committee?

32. Have you, or has any member of your family or close friend, ever been charged with a crime?

33. Have you, or has any member of your family or close friend, ever been a victim of a crime?

Problems With Perception

34. Do any of you have any problems with your hearing or vision that would prevent you from giving full attention to all of the evidence at this trial? Are any of you taking any medication that would prevent you from giving full attention to all of the evidence at this trial?

35. Do any of you have any difficulty in reading or understanding English?

Views on Witnesses

36. Law Enforcement Witnesses. The witnesses in this case will include, among others, special agents with the Drug Enforcement Administration and officers of the New York City Police Department. Would you be more likely to believe or disbelieve a witness merely because he or she is a law

enforcement officer? Would any of you be less likely to believe or disbelieve a witness merely because he or she is a law enforcement officer?

37. Persons not on trial. You will hear about individuals not on trial here that are alleged to have been involved in the crime charged in the Indictment. You may not draw any inference, favorable or unfavorable, towards the Government or the trial defendant from that fact. You also may not speculate as to the reason why other persons are not on trial. Is there any juror who cannot follow this instruction or who for this reason would have difficulty rendering a fair and impartial verdict?

38. Accomplice Testimony. You may hear testimony in this case from one or more defendants who have pled guilty to crimes and entered into cooperation agreements with the Government. Do you have any general feelings about the use of evidence obtained from cooperating defendants that would make it difficult for you to render a wholly fair and impartial verdict? Would you have a bias for or against the Government because of the use of evidence obtained from a cooperating defendant?

Other Biases

39. Court Translator. During this trial, some of the testimony you will hear will be provided through the official court interpreter. If you understand Spanish, would you be able to accept the Court's instruction that when testimony has been

presented in a language other than English you must base your decision on the testimony presented through the interpreter, and not your own interpretation?

40. Evidence Obtained From Searches. You may hear about or see evidence that was seized in a search and in arrests. The use of such evidence is lawful, and the Government is entitled to use the evidence obtained from the searches and arrests in this case. Do you have any feelings about the use of evidence seized in searches or arrests that would make it difficult for you to render a fair and impartial verdict?

41. In these questions, I have tried to direct your attention to possible reasons why you might not be able to sit as a fair and impartial juror. Apart from any prior questions, does any juror have the slightest doubt in his or her mind, for any reason whatsoever, that he or she will be able to serve conscientiously, fairly, and impartially in this case and to render a true and just verdict without fear, favor, sympathy, or prejudice, and according to the law as it will be explained?

Function of the Court and Jury

42. The function of the jury is to decide questions of fact. You are the sole judges of the facts and nothing that the Court or the lawyers say or do may encroach in any way on your role as the exclusive fact finders. When it comes to the law, however, you must take your instructions from the Court and you

are bound by those instructions. You may not substitute your notions of what the law is or what you think it should be. At the conclusion of the case, your job will be to determine whether or not the defendant is guilty as charged in the Indictment.

43. Does any juror have any bias or prejudice that might prevent or hinder him or her from accepting the instructions of the law that I will give you in this case?

44. Will each juror accept the proposition that the question of punishment is for the Court alone to decide and that the possible punishment must not enter into the deliberation of the jurors as to whether the defendant on trial here is guilty?

45. It is not a particularly pleasant duty to find another individual guilty of committing a crime. Is there any juror who feels that even if the evidence established the defendant's guilt beyond a reasonable doubt, he or she might not be able to render a guilty verdict for reasons unrelated to the law and the evidence?

46. Does any juror have any religious, philosophical or other belief which would make him or her unable to render a guilty verdict for reasons unrelated to the law and the evidence?

Juror's Background

47. The Government respectfully requests that the Court ask each juror to state the following information:

(a) the juror's occupation;

- (b) the name and county or town of the juror's employer;
- (c) the period of employment with that employer;
- (d) the nature of the juror's work;
- (e) the same information concerning other employment within the last five years;
- (f) the same information with respect to the juror's spouse, any working children, and any working members of the juror's household;
- (g) the juror's current county or town of residence; how long he or she has lived there; and the same information (if applicable) for the past five years;
- (h) the educational background of the juror including the highest degree obtained;
- (i) whether any juror has had any legal training;
- (j) the juror's hobbies and leisure-time activities;
- (k) the names of the newspapers and magazines the juror reads;
- (l) the names of the television programs the juror regularly watches; and
- (m) whether the juror - or any of the juror's family or friends - has had any experience with the Drug Enforcement Administration, the Internal Revenue Service, or the New York City Police Department,

or any other police department.

Requested Instruction Following Impaneling of the Jury

48. From this point on until you retire to deliberate on your verdict, it is your duty not to discuss this case and not to remain in the presence of other persons who may be discussing this case. This rule about not discussing the case with others even includes with members of your own family or friends.

49. If at any time during the course of this trial, any person attempts to talk to you or to communicate with you about this case, either in or out of the courthouse, you should immediately report such an attempt to me.

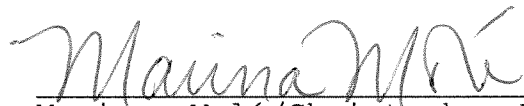
50. In this regard, let me explain to you that the prosecutors, law enforcement agents, defense counsel and the defendant in this case are not supposed to talk to jurors, even to offer a friendly greeting. So if you happen to see any of them outside this courtroom they will, and should, ignore you. Please do not take offense. In doing so, they will only be acting properly and in accordance with my instructions.

Dated: New York, New York
February 4, 2008

Respectfully submitted,

MICHAEL J. GARCIA
United States Attorney for the
Southern District of New York

By:


Marissa Molé/Christopher LaVigne
Assistant United States Attorneys
(212) 637-2275/2325

CERTIFICATE OF SERVICE

MARISSA MOLÉ, pursuant to Title 28, United States Code, Section 1746, hereby declares under the penalty of perjury:

That I am an Assistant United States Attorney in the Office of the United States Attorney for the Southern District of New York.

That, on February 4, 2008, I caused one copy of the Government's Proposed Voir Dire to be delivered via ECF notification to:

Alan Kaufman, Esq.
Kelley Drye & Warren LLP
101 Park Avenue
New York, NY 10178-0002

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: New York, New York
February 4, 2008


MARISSA MOLÉ